

AMENDED IN ASSEMBLY MAY 27, 2005

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1172

Introduced by Assembly Member Chu
(Coauthor: Assembly Member Jones)

February 22, 2005

~~An act to amend Sections 200 and 224 of~~ *An act to add Section 221.5 to the Labor Code, relating to employment.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1172, as amended, Chu. Employment: wages.

Existing law defines wages to include all amounts for labor performed by employees of every description. *Existing law generally prohibits an employer from withholding or diverting any portion of an employee's wages, except for when the employer is required or empowered to do so by federal or state law, or for other specified deductions. Existing law also provides that commission wages, as defined, paid to any person employed by an employer licensed as a vehicle dealer by the Department of Motor Vehicles are due and payable once during each calendar month on a day designated in advance by the employer as a regular payday.*

~~This bill would specify that the definition of wages includes advances on commissions.~~

~~Existing law generally prohibits an employer from withholding or diverting any portion of an employee's wages, except for when the employer is required or empowered to do so by federal or state law, or for other specified deductions.~~

~~This bill would, notwithstanding that exception, prohibit an employer from withholding or diverting any portion of an employee's wages to repay an advance on commissions unless the employer has first obtained a valid assignment of wages.~~

~~This bill would declare that its provisions are declaratory of existing law and shall apply to all existing claims and causes of action.~~

~~This bill would prohibit a telephone corporation, as defined, from recovering, receiving, or charging back from an employee any part of a commission advance, as defined, previously paid to the employee.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 221.5 is added to the Labor Code, to
2 read:

3 221.5. (a) A telephone corporation shall not recover, receive,
4 or charge back from an employee, either directly or indirectly,
5 any part of a commission advance previously paid to the
6 employee.

7 (b) For purposes of this section, the following terms have the
8 following meanings:

9 (1) "Commission advance" means any amount paid by a
10 telephone corporation to an employee in anticipation of
11 commission wages being earned in the future.

12 (2) "Commission wages" shall have the same meaning as
13 provided in Section 204.1.

14 (3) "Telephone corporation" shall have the same meaning as
15 provided in Section 234 of the Public Utilities Code.

16 ~~SECTION 1. Section 200 of the Labor Code is amended to~~
17 ~~read:~~

18 ~~200. As used in this article, the following terms have the~~
19 ~~following meanings:~~

20 ~~(a) "Wages" includes all amounts for labor performed by~~
21 ~~employees of every description, whether the amount is fixed or~~
22 ~~ascertained by the standard of time, task, piece, commission~~
23 ~~basis, or other method of calculation, and includes advances on~~
24 ~~commissions.~~

25 ~~(b) "Labor" includes labor, work, or service whether rendered~~
26 ~~or performed under contract, subcontract, partnership, station~~

1 ~~plan, or other agreement if the labor to be paid for is performed~~
2 ~~personally by the person demanding payment.~~

3 ~~SEC. 2. Section 224 of the Labor Code is amended to read:~~

4 ~~224. (a) The provisions of Sections 221, 222, and 223 shall~~
5 ~~in no way make it unlawful for an employer to withhold or divert~~
6 ~~any portion of an employee's wages when the employer is~~
7 ~~required or empowered so to do by state or federal law or when a~~
8 ~~deduction is expressly authorized in writing by the employee to~~
9 ~~cover insurance premiums, hospital or medical dues, or other~~
10 ~~deductions not amounting to a rebate or deduction from the~~
11 ~~standard wage arrived at by collective bargaining or pursuant to~~
12 ~~wage agreement or statute, or when a deduction to cover health~~
13 ~~and welfare or pension plan contributions is expressly authorized~~
14 ~~by a collective bargaining or wage agreement.~~

15 ~~(b) Notwithstanding subdivision (a), an employer shall not~~
16 ~~withhold or divert any portion of an employee's wages to repay~~
17 ~~an advance on commissions unless the employer has first~~
18 ~~obtained a valid assignment of wages pursuant to Section 300.~~

19 ~~(c) Nothing in this section or any other provision of law shall~~
20 ~~be construed as authorizing an employer to withhold or divert~~
21 ~~any portion of an employee's wages to pay any tax, fee, or~~
22 ~~charge prohibited by Section 50026 of the Government Code,~~
23 ~~whether or not the employee authorizes that withholding or~~
24 ~~diversion.~~

25 ~~SEC. 3. The amendments made by this act are declaratory of~~
26 ~~existing law and, as such, shall apply to all existing claims and~~
27 ~~causes of action.~~